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Application Serial No.: 10/806,899

SEP 28 2006

REMARKS

Claims 1-23 are now pending in the subject U.S. patent application. Claims 1-23 as filed have been subjected to a Restriction/Election Requirement.

In response to the Restriction/Election Requirement, applicants have elected the claims of Group I, claims 7, 8, 11-17, 20 and 21 for prosecution at this time. It is believed that claims 7, 8, 11-17, 20 and 21 are readable upon this election.

The Patent Office has identified claims 1-6, 9 and 10 as linking claims, linking Groups I and II. Accordingly, applicants submit that linking claims 1-6, 9 and 10 should be joined and examined with the claims of Group I. Applicants also request rejoinder of Group II upon indication that at least one linking claim, 1-6, 9 and 10, is allowable.

Applicants also elect the missense mutation corresponding to the c251A→G nucleotide change from Table 3, page 46 of the subject application.

Applicants also hereby reserve the right to file one or more divisional patent applications directed to the unelected subject matter.

In addition to the election presented above, applicants respectfully traverse the Restriction Requirement and submit that it would not be unduly burdensome to rejoin and examine the claims of Groups III and IV with the claims of Group I. Applicants submit that the differences among the Groups are not of such an extent as to constitute a considerable burden on the Examiner. Further, applicants respectfully submit that according to M.P.E.P. § 806 and subsections thereof, where inventions

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are related as disclosed but are distinct as claimed, restriction may be, but is not necessarily, proper (see M.P.E.P. § 806(B); emphasis added).

To elaborate, applicants submit that the claims of Group III and IV involve the diagnosis of SMEI using the methods of Groups I and II. Particularly, once SMEI is diagnosed using the methods of Groups I and II, the appropriate treatment is determined by correlating the diagnosis reached with known indications and contraindications for SMEI patients (Group III) or determining the likelihood of adverse results from treatments (Group IV) in the same way. Thus, applicants respectfully submit that the differences among the Groups are not of such a degree as to constitute a serious search burden. Accordingly, applicants submit that it would not be unduly burdensome to rejoin and examine the claims of Group III and IV with the claims of Group I.

CONCLUSIONS

Should there be any minor issues outstanding in this matter, the Examiner is respectfully requested to telephone the undersigned attorney. Early passage of the subject application to issue is earnestly solicited.

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DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with  
the filing of this correspondence to Deposit Account Number 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: 09/28/2006

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